IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

JOHN NELSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	NO. 2:16-0021
	)	Sharp/ Bryant
WILDERNESS HUNTING LODGE, LLC,	)	**JURY DEMAND**
	)	
Defendant.	)	

AMENDED COMPLAINT

Comes the Plaintiff, John L. Nelson, Jr., by and through the undersigned counsel, and pursuant to F.R.C.P. 15, as a matter of course, files the following Amended Complaint asserting a cause of action against the Defendant, Wilderness Hunting Lodge, LLC. As grounds for this filling, Plaintiff would show this Court that Wilderness Hunting Adventures, LLC filed its Answer on April 19, 2016 identifying Wilderness Hunting Lodge, LLC as the proper Defendant in the present suit. Consequently, this Amended Complaint seeks to change the party or the naming of the party against whom Plaintiff's claim is asserted, by substituting the proper party. Plaintiff would maintain that the present amendment is permitted by F.R.C.P. 15(a), as it is filed less than 21 days after service of the Answer. Plaintiff would maintain that pursuant to F.R.C.P. 15(c), this amendment relates back to the date of filing of the Complaint as the claim asserted in the Amended Complaint arose out of the conduct, transaction, or occurrence set forth in the Complaint; the amendment merely changes the party or the naming of the party against whom the claim is asserted; and within the period provided by F.R.C.P. 4(m), Wilderness Hunting Lodge, LLC (who has the same registered agent and principal office address as Wilderness

Hunting Adventures, LLC) received such notice of this action that it will not be prejudiced in defending on the merits; and it knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity. For cause of action against Wilderness Hunting Lodge, LLC, the Plaintiff would state as follows:

PARTIES

1. Plaintiff John L. Nelson, Jr. is a citizen and resident of Beaufort County, South Carolina.

2. Upon information and belief, Defendant Wilderness Hunting Lodge, LLC, (hereinafter "Wilderness Hunting Lodge" or "Defendant") is a Tennessee limited liability company, and may be served with process by delivering a copy of this Complaint along with a Summons to its registered agent, Alan Wilson, at 173 Norrod Lane, Monterey, Tennessee 38574.

JURISDICTION AND VENUE

3. This Court has diversity jurisdiction over the causes of action set forth in this Complaint pursuant to the terms and provisions of 28 U.S.C. § 1332, as the matter in controversy exceeds the sum of $75,000.00 exclusive of interests and costs, and there is complete diversity of citizenship between the parties.

4. Venue is proper in this Court pursuant to the terms and provisions of 28 U.S.C. § 1391(a), as a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

FACTUAL BACKGROUND

5. On or about March 23, 2015, Plaintiff was hunting at Wilderness Hunting Lodge in Monterey, Tennessee. Plaintiff was an invitee of the Defendant, and was hunting on property owned and controlled by the Defendant. Plaintiff was informed by representatives

and/or agents of the Defendant that he would be transported about the property in a "Quad" motor vehicle, driven by an employee or agent of the Defendant. Upon information and belief, the "Quad" vehicle was owned and/or controlled by the Defendant.

6. Defendant's employee/agent was driving the Plaintiff and another individual through the woods back to the hunting lodge when the driver lost control of the Quad and ran the vehicle into a tree.

7. Upon information and belief, the driver was operating the Quad vehicle as an employee/agent of Defendant Wilderness Hunting Lodge and was engaged in the course and scope of his employment at the time of the accident, operating his vehicle with the permission and consent and for the benefit of Defendant. Plaintiff avers that Defendant is thereby liable to the Plaintiff for the negligent actions on the part of the employee driver pursuant to the doctrine of *respondeat superior*. The Defendant, and its employee/agent had a duty to the Plaintiff to transport him about the property in a reasonable and safe manner.

8. As a direct and proximate result of the collision, Plaintiff, who was riding in the middle of the seat, sustained severe injuries, including, but not limited to, a dislocated shoulder, a massive tear to his rotator cuff, major nerve injury, a deep gash on his leg and cuts on his right hand. Plaintiff experienced such severe pain at the time of the collision that he thought his arm had been severed.

9. After the collision, Plaintiff had to be lifted out of the Quad by the paramedics. He was unable to walk.

10. Plaintiff was transported via ambulance to Cookeville Regional Medical Center, where he was treated for his injuries. Thereafter, Plaintiff has been treated by physicians and has been required to undergo painful testing and therapy.

CAUSES OF ACTION

11. Plaintiff would aver that the Defendant, through the acts of its employee/agent, was negligent in that it failed to transport Plaintiff about the property in a reasonable and safe manner. Plaintiff would further aver that the Defendant, through the acts of its employee/agent, was negligent in that said employee/agent:

a. Failed to keep a proper lookout while operating the Quad vehicle under the conditions then and there existing;

b. Operated the Quad vehicle in a negligent manner by failing to keep the vehicle from striking the tree;

c. Operated the Quad vehicle in a negligent manner under the conditions then and there existing;

d. Saw or should have seen that an accident would result and failed to make all reasonable efforts and precautions to avoid the collision.

CAUSATION

12. The acts of negligence on the part of the Defendant's employee/agent, as specified above, constitute the sole and proximate cause of this incident and the resulting damages of the Plaintiff. Plaintiff was without fault in this cause.

DAMAGES

13. As a result of the injuries he sustained in the collision, Plaintiff has been required to undergo extensive medical treatment and physical therapy. He has experienced and continues to experience permanent impairment, severe physical pain, mental pain and suffering, permanent loss of movement in his arm and permanent muscle weakness.

14. Plaintiff has incurred and will continue to incur medical expenses for the

treatment of his injuries.

15. Plaintiff is no longer able to perform, or has difficulty performing, many of the tasks which he was able to perform prior to the collision, including, but not limited to, mundane tasks such as getting dressed, tying his shoes, tucking in his shirt and doing the dishes.

16. Plaintiff is no longer able to perform many of the hobbies and activities which he regularly enjoyed before the collision, including, but not limited to, hunting, golfing, mowing the lawn, riding his bicycle, and swimming.

WHEREFORE, PREMISES CONSIDERED, Plaintiff sues Defendant and respectfully prays as follows:

1. That process be issued to the Defendant in this case and that it be served with said process and required to file an answer in this Honorable Court.
2. That a jury of least six (6) persons, but not more than twelve (12) persons be empaneled to try all issues pertaining to this case.
3. That Plaintiff be awarded a judgment against the Defendant for compensatory damages in an amount not more than $850,000.00.
4. That the costs of this cause, including Plaintiff's discretionary costs be taxed to the Defendant.
5. That the Court grant such other, further and general relief as the Plaintiff may be entitled.

Respectfully submitted this the 9th day of May, 2016.

s/ D. Scott Hurley
D. Scott Hurley, Esq. #011001
Attorney for the Plaintiff
The Hurley Law Firm, P.C.
205 Mohican St.
Knoxville, Tennessee 37919
865-523-1414
865-546-8121 (fax)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this Amended Complaint, has been served on the following individuals listed below electronically using the CM/ECF system this 9th day May, 2016.

Wayne A. Kline, Esq.
P.O. Box 869
Knoxville, TN 37901-0869

s/ D. Scott Hurley
D. Scott Hurley